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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/741,308	10/30/96	KATZ	B 9410CD.PUS

26N2/0804

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EXAMINER	
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ART UNIT	PAPER NUMBER
2613	6

DATE MAILED: 08/04/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 5/23/97.

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire -3- month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 2-19 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 2-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

* U S GPO: 1996-409-290/40029

DETAILED ACTION

1. A copy of the references listed on the PTO-892 has not been provided to applicant because these references were provided to applicant previously in the parent application 08/232,363.

Specification

2. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52© and 1.56. A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by serial number and filing date is required.

The specification contains numerous handwritten alterations which would require a new oath or declaration. See pages 6 and 11. Further the handwriting on page 11 are illegible.

Double Patenting

3. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 2-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-20 of copending Application No. 08/741,309. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use the equivalent method as set forth in the copending application for the claimed system, and while the claims in the two applications are not duplicates, they are so close in content that they both cover the same thing, despite a slight difference in wording.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

5. Claims 2-6 and 8-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2, "the sensor means" has no antecedent basis.

Claim 3, "the means for generating" has no antecedent basis.

Claim 4, "the first recording means" has no antecedent basis.

Claim 5, "the playback means" has multiple antecedent basis.

Claim 6, "the second recording means" has no antecedent basis.

Claim 8, "the control means" has no antecedent basis.

Claim 9, "the first recording means" has no antecedent basis.

Claim 10, "the second recording means" has no antecedent basis.

Claim 11, "the control means" has no antecedent basis.

Claim 12, "the synchronizing signals" has no antecedent basis.

Claim 13, "the light sensing means" has no antecedent basis.

Claim 14, "the first recording means" has no antecedent basis.

Claim 15, "the synchronizing signals" has no antecedent basis.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 3-10, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (P.N. 4,641,203) in view of Clever (P.N. 4,145,715).

Re claims 16-19 and 8, Miller discloses a system for asynchronously relating recorded video and digital data wherein the video and digital data are synchronized in a manner to provide verifiable surveillance (col. 3, lines 12-28) comprising means (20,34) for generating and storing video signals of behavioral events corresponding to a desired transaction (col. 3, line 29-35) and marking the video signals with a first sequence code signal from a sequence code source (col. 4, lines 55-60); means (44) generating and storing digital signals representing data for said transaction, said digital signals including signals presenting alphanumeric characters corresponding to the transaction, and means for marking the digital signals with a matching sequence code signal from a source common to the source of said first sequence code signal and synchronized therewith (col. 3, lines 38-47); means (10) for retrieving the stored video signals and the sequence code signal; means (10) for retrieving the stored digital signals and sequence code signal; means for matching up the retrieved digital signals with the corresponding video signals to form a composite video signal wherein the alphanumeric characters overlie the corresponding behavioral event to thereby verify that the behavioral event is in fact the one recorded for the transaction (col. 3, lines 3-11); and means for displaying the signals on a monitor (col. 5, lines 27-34).

Miller discloses using a single display (col. 5, lines 28-33), but fails to disclose generating a composite video signal wherein an alpha-numeric display is overlaid on the video signal of the desired behavioral events.

Clever teaches a composite signal including signals representing alphanumeric displays corresponding to desired transaction events, and the alpha-numeric display is overlaid on the video signal of the desired behavioral events.

Therefore, it would have been obvious to one skilled in the art to modify Miller to generate a composite signal from the synchronized video signal and digital signal so the alpha-numeric digital signal is overlaid on the video signal as taught by Clever. This would provide the advantage of a larger display of the video image since the digital data and video data are superimposed.

Re claim 19, Miller does not disclose a common source for the synchronizing signal. However, it is well recognize that using a common source would provide a more accurate synchronization or timing instead of two separate sources generating the same timing.

Re claim 3, Miller teaches the source for generating synchronizing signals means may be any well known parameter (col. 3, lines 45-53). Therefore a clock is a well known and/or equivalent source for synchronizing signals.

Re claims 4 and 5, Miller discloses a video tape recorder (22).

Re claims 6 and 7, Miller discloses the second recording means is a computer (col. 5, lines 22-23).

Re claims 9 and 10, Miller fails to disclose the recording means is a video disc or a compact disc. However, a video disc or compact disc are well known equivalent recording device.

8. Claim 2 is rejected under 35 U.S.C. § 103 as being unpatentable over Miller and Clever as applied to claim 17 above, and further in view of Katz (P.N. 5,216,502).

Re claim 2, Miller does not disclose that the sensor means is a cash register. Katz teaches a sensor means in a surveillance system is a cash register (24) to provide video recordings of transactions in cashier lanes. Therefore it would have been obvious to one skilled in the art to modify the invention of Miller to be used for making and reviewing video recordings of transactions at cashier lanes as taught by Katz since Miller discloses his invention may be employed in any type of environments (col. 3, lines 20-40). Miller as modified would use the cash register as taught by Katz to replace the keyboard as the means for inputting descriptive data.

9. Claims 11-15 are rejected under 35 U.S.C. § 103 as being unpatentable over Miller and Katz as applied to claim 17 above, and further in view of Cotton et al (P.N. 4,630,110).

Re claim 11, the combination of Miller and Katz does not disclose a computer means for manipulating, calculating, sorting and filtering the stored data. Cotton teaches generating reports based on the data stored in the memory (col. 7, lines 44-45). Manipulating, calculating, sorting, and filtering are conventional methods of generating reports. Therefore it would have been

obvious to one skilled in the art to modify Miller to have a computer to generate reports as taught by Cotton to provide a concise statement of the data.

Re claims 12 and 15, the synchronizing signals may be any type of parameter (col. 3, lines 48-52).

Re claims 13 and 14, Miller discloses a television camera and a video cassette recorder.

Response to Arguments

10. Applicant's arguments with respect to claims 2-19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant did not response to the double patenting rejection.

The new grounds of rejection was necessitated by applicant's filing of a 37 CFR 1.131 declaration.

Although the rejection over Odle has be withdrawn in view of the 131 declaration, it should be noted that Odle still discloses the same invention. Applicant alleges that the present invention differs from Odle in that the present invention asynchronously stores the video and digital signals, and notes that support is found on page 5 of the specification. The last paragraph on page 5 describes that the transaction data or digital data is stored in a buffer until the termination of the transaction and therefore the transaction information is recorded asynchronously with the video pictures. Examiner disagrees with applicant's interpretation. The digital data is generated and recorded (when the data is generated it has to be stored or else the

information would be lost) at the same time as the video data, therefore, the present invention does not actually asynchronously stored the digital and video data.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amelia Au whose telephone number is (703) 308-6604. The examiner can normally be reached on Monday - Thursday from 6:30 am - 4:00 pm EST. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tommy Chin, can be reached on (703) 305-4715. The fax phone number for this Group is (703) 308-5399.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

AMELIA AU
PATENT EXAMINER
GROUP 2600

aau
July 29, 1997